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January 21, 1999

Magalie R. Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

RECEIVED

JAN 21 1999

Re: Ex Parte Presentation

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Deployment of Wireline Services Offering Advanced Telecommunications  
Capability  
CC Docket No. 98-147

Dear Ms. Salas:

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, MGC Communications Inc. ("MGC") provides the following additional information for the Commission's consideration in the above-captioned docketed proceedings.

In prior pleadings submitted in this proceeding, MGC has discussed the issue of Ameritech's refusal to allow MGC to collocate MGC's remote switching module ("RSM") in Ameritech's central offices.<sup>1</sup> At this time, MGC would like to update the Commission by providing it with additional information in the form of an Illinois Commerce Commission ("ICC") staff recommendation recently filed in MGC's on-going litigation with Ameritech over the collocation of the RSM. Alarming, the staff recommendation, which is appended to this *ex parte* as Attachment A, supports Ameritech's position to refuse to permit MGC to collocate RSMs in Ameritech central offices.<sup>2</sup> For the Commission's convenience, the pertinent points of

<sup>1</sup> See, e.g. *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Comments of MGC Communications, Inc. at 14 (filed Sept. 25, 1998); see also *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Reply Comments of MGC Communications, Inc. at 3-5 (filed Oct. 16, 1998).

<sup>2</sup> *Direct Testimony of S. Rick Gasparin, Telecommunications Division, Illinois Commerce Commission*, Docket No. 98-0191 at 7-8 (Dec. 15, 1998) ("Attachment A").

Magalie R. Salas, Secretary  
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the collocation dispute between the parties and the ICC staff recommendation in support of Ameritech are summarized below.

- MGC seeks to collocate a remote switching module in Ameritech's central offices, to be used as an aggregating device, in lieu of an access node. The RSM will **not** be used for switching purposes but for signal regeneration -- which the ICC has determined to be an integral network function -- and for grooming traffic. The switching functionality of the RSM used by MGC will be disabled by Nortel, prior to delivery to MGC.
- Nortel's engineers have confirmed, in writing, the ability to disable the RSM's intraswitching and Emergency Stand Alone ("ESA") functionalities, as well as mechanics involved in the disabling process.
- MGC is willing to agree to substantial penalties if it is ever determined that the RSM's switching capability has been enabled.
- The RSM is useful to MGC because it has line aggregation capabilities superior to that of other available equipment. In addition, MGC is able to achieve certain economies of scale through the purchase of large quantities of RSMs from Nortel.
- Ameritech's refusal to collocate MGC's equipment not only impedes the development of competition in Illinois, but violates the terms of the Interconnection Agreement between the parties, the ICC's 1996 *Arbitration Decision*, the FCC's policies and the ILECs' statutory collocation obligations under the 1996 Act.
- The terms of the Interconnection Agreement between Ameritech and MGC expressly gives MGC the right to collocate any type of non-switching equipment in Ameritech's central offices, as long as this equipment is neither used for switching nor provisioned so that it is capable of switching.
- The ICC has determined that Ameritech is required to permit, within a competitor's collocated space, the collocation of equipment used for signal regeneration -- the exact type of equipment that MGC seeks to collocate with Ameritech.<sup>3</sup>

---

<sup>3</sup> *AT&T Communications of Illinois, Inc. v. Ameritech Illinois*, 96 AB-003, 96 AB-004 at 18 (Nov. 26, 1996) ("Arbitration Decision").

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- The FCC has determined that collocation measures that optimize available collocation space and reduce costs and delays for competing providers are consistent with the ILECs' obligations under the Act and the Commission's rules.<sup>4</sup>
- The FCC has tentatively concluded that LECs should not be permitted to hinder competing carriers by imposing unnecessary restrictions on the type of equipment that competing carriers may collocate.<sup>5</sup> To this end, the Commission has noted that "[c]ertain facilities that competing carriers need to collocate to provide advanced services efficiently may also perform switching functions."<sup>6</sup>
- An ICC staff member has recommended that the ICC support Ameritech's position and classify the disabled RSM as a switch.
- Such an approach is fundamentally inconsistent with the FCC's recommended decision, which was supported by the majority of commenters in this proceeding.<sup>7</sup>

The Commission should take immediate action to ensure that state commission collocation policies adverse to the Commission policies advanced in this proceeding do not become the law of the land. Absent the introduction of specific Commission language that affirms the ability of CLECs to collocate equipment capable of performing functions such as aggregation and signal regeneration; to collocate equipment capable of performing the switching functions necessary for the competitive provision of telecommunications services; and to collocate any other piece of equipment necessary for interconnection with ILEC networks, CLECs such as MGC will continue to be subject to recalcitrant ILEC behavior, legal posturing and gamesmanship. A uniform, federal standard permitting CLECs to collocate equipment such as the RSM will further serve to eliminate the proliferation of arcane and disparate state rules that so often serve to discourage CLECs from effectively competing in the local marketplace.

Pursuant to 1.1206(b)(1), MGC submits an original and one (1) copy of this written *ex*

---

<sup>4</sup> *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, CC Docket Nos. 98-147 et al., at para. 64 (rel. Aug. 7, 1998).

<sup>5</sup> *Id.* at para. 129.

<sup>6</sup> *Id.* at para. 128.

<sup>7</sup> *See, e.g.*, ALTS Petition at 21; e.spire Comments at 27-28 (arguing that the Commission should modify its collocation rules to allow for any equipment that contains routing, aggregating or multiplexing functionalities, including remote switching modules); Covad Comments at 17 (stating that the Commission must permit the collocation of remote access management equipment, digital packet switching equipment, cross-connect equipment and routers).

KELLEY DRYE & WARREN LLP

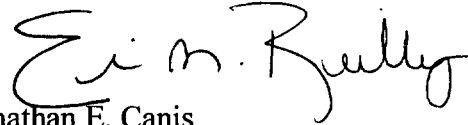
Magalie R. Salas, Secretary

January 21, 1999

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*parte* for inclusion in the public record of each above-referenced proceedings. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Erin M. Reilly".

Jonathan E. Canis

Erin M. Reilly

cc: Dr. Stagg Newman, Chief Technologist  
Lawrence E. Strickling, Chief, Common Carrier Bureau  
Jonathan M. Askin, Common Carrier Bureau  
Jason D. Oxman, Common Carrier Bureau  
International Transcription Service



**ILLINOIS COMMERCE COMMISSION**

---

December 15, 1998

Ms. Donna Caton  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Street  
P.O. Box 19280  
Springfield, Illinois 62794-9280

**Re: III. C.C. Docket 98-0191**

Dear Ms. Caton:

Enclosed for filing in the above-referenced docket please find a copy of the Staff of the Illinois Commerce Commission Direct Testimony. Also enclosed are a Notice of Filing and Certificate of Service.

Please acknowledge receipt by date stamping a duplicate copy of this letter and returning it to me in the envelope provided.

Sincerely,

A handwritten signature in cursive script, reading "Cheryl M. Longstreet", written over a horizontal line.

Cheryl M. Longstreet  
Illinois Commerce Commission  
Office of General Counsel  
160 North LaSalle Street  
Suite C-800  
Chicago, Illinois 60601  
(312) 793-2877

Counsel for the Staff of the  
Illinois Commerce Commission

CMS/bjm

cc: Service list (w/encls.)

Docket No. 98-0191  
Exhibit 1.0

**DIRECT TESTIMONY  
OF  
S. RICK GASPARIN**

**TELECOMMUNICATIONS DIVISION  
ILLINOIS COMMERCE COMMISSION**

**DOCKET NO. 98-0191**

**December 15, 1998**

---

1 Q. Please state your name and business address.

2

3 A. My name is S. Rick Gasparin, and my business address is 527 East Capitol  
4 Avenue, P. O. Box 19280, Springfield, Illinois 62794-9280.

5

6 Q. By whom are you employed and in what capacity?

7

8 A. I am employed by the Illinois Commerce Commission as an Economic Analyst in  
9 the Telecommunications Division.

10

11 Q. Please briefly describe your work duties with the Illinois Commerce Commission.

12

13 A. My responsibilities include, but are not limited to, reviewing tariff documents  
14 submitted to the Commission by telecommunications carriers and making  
15 recommendations to the Commission regarding those tariff filings, inspecting the  
16 quality of service of local exchange carriers, and analyzing depreciation rates  
17 submitted by local exchange carriers.

18

19 Q. Please state your education background.

20

21 A. I hold an Associate Degree from Lincoln Land Community College, a Bachelors  
22 Degree and Masters Degree from Sangamon State University.

23 Q. Please state your work experience.

24

25 A. From 1970 to 1976, I was employed by the Illinois Department of General  
26 Services as a Facilities Planner where I prepared and designed interior facilities  
27 including telecommunications layouts. Also, as an employee of the Real Estate  
28 Division, I wrote hundreds of property transaction agreements such as leases,  
29 amendments, cancellations and terminations.

30

31 From 1976 to 1979, I was the Manager of the Office Services section for the  
32 Illinois Environmental Protection Agency. In this position, I was responsible for  
33 all of the Agency's building facilities including telecommunications.

34

35 From 1979 to 1988, I worked for the State of Illinois Department of Central  
36 Management Services where I ascended from a Communications Specialist to  
37 the Manager of the Voice Communications section. In the later position, I was  
38 responsible for the State's voice communications services which totaled  
39 approximately 140,000 lines with an annual budget of \$75 million. Also, I  
40 managed a staff of 20 employees. A major responsibility in this position was the  
41 development, execution and interpretation of approximately 300 contracts for the  
42 provisioning of telecommunications systems.

43



44 From 1988 to 1991, I owned and operated my own telecommunications  
45 consulting firm specializing in the design, procurement and installation  
46 management of communications systems.

47  
48 I joined the Staff of the Illinois Commerce Commission in January of 1991 and  
49 have provided testimony or assistance to other Staff members on approximately  
50 100 docketed cases.

51  
52 Q. Have you reviewed the testimony and related documentation of the parties in this  
53 complaint case?

54  
55 A. Yes. I have reviewed the complaint documents and the testimony of Mr. Nield  
56 Montgomery of MGC Communications, Inc. ("MGC"), and the testimony supplied  
57 on behalf of Ameritech Illinois ("Ameritech") by Mr. Daniel J. Kocher.

58  
59 Q. Please summarize MGC's position regarding this complaint.

60  
61 A. For reference and background, Ameritech and MGC entered into an  
62 interconnection agreement specifying the terms and conditions for  
63 interconnection between the two companies in May of 1997. The agreement  
64 was approved November 1997 by the Commission. In relation to collocation and  
65 the use of switching equipment in Ameritech's central offices, the interconnection  
66 agreement specifically states,

67 "Ameritech shall provide Collocation for the purpose of Interconnection or  
68 access to unbundled Network Elements, except as agreed to or required  
69 by the FCC or the Commission. A Collocating Party shall not be permitted  
70 to collocate switching equipment or other equipment used to provide  
71 enhanced services or to facilitate hubbing architecture. MGC will be  
72 permitted to collocate its access nodes, but may not use the access  
73 nodes for switching purposes and may not provision the access nodes so  
74 that they are capable of switching. Ameritech may at any reasonable time  
75 inspect or audit MGC's use of the access node to verify that they are not  
76 being used for switching. MGC shall be permitted to collocate equipment  
77 not capable of switch with the prior written approval of Ameritech."  
78 (Interconnection Agreement at p. 27). (Emphasis added).  
79

80 (Note: Although not at issue, an amendment to the above language has  
81 been executed by the parties which allows for hubbing equipment.)  
82

83 MGC, as a basis for their complaint, contends that it should be allowed to place  
84 remote switching equipment in the Ameritech's central office collocation space  
85 so long as the switching functions are disabled. (Direct testimony of Neild J.  
86 Montgomery at p. 3-4).  
87

88 Q. How does MGC intend to use the remote switch?  
89

90 A. According to MGC witness Montgomery, the company intends to use the switch  
91 as a collection device where unbundled loops may be aggregated and  
92 transported to the host switch.  
93

94 Q. Is Ameritech required to allow MGC to collocate switching equipment in its  
95 central office?  
96

97 A. No. Pursuant to its 1996 First Report and Order CC Docket No. 96-98 and 95-  
98 185, the FCC refused to "impose a general requirement that switching  
99 equipment be collocated since it does not appear that it is used for the actual  
100 interconnection or access to unbundled network elements." (FCC 1996 Order at  
101 paragraph 581). Therefore, Ameritech was justified in negotiating language in its  
102 interconnection agreement between MGC and Ameritech that disallowed  
103 switching equipment.

104  
105 Q. What is Ameritech's contention regarding the use of the remote switching  
106 equipment?

107  
108 A. Ameritech is unwilling to amend its interconnection agreement, which it believes  
109 to have been negotiated in good faith and expressly prohibits the collocation of  
110 switching equipment in Ameritech's facilities. (Direct Testimony of Kocher at p.  
111 17).

112  
113 Q. Has MGC provided a level of assurance that the remote switching equipment will  
114 not be used for switching?

115  
116 A. Yes. MGC has provided verification from the manufacturer of the equipment,  
117 NORTEL, that the remote switching equipment would be disabled and unable to  
118 provide traditional switching functionalities. Further, MGC indicated it would  
119 allow Ameritech to monitor the equipment to assure that switching was not

120 occurring, and, if switching functions were operational, MGC would accept  
121 financial penalties. (Direct Testimony of Neild J. Montgomery at p. 4).  
122

123 Q. Is it of any relevance that MGC has stated that it will disable the switching  
124 functions of the remote switching equipment and allow Ameritech to monitor the  
125 equipment to assure that switching functions are not being performed?  
126

127 A. No, as Ameritech witness Kocher explains, since there would be no change to  
128 the hardware of the remote switching equipment only to software packages, the  
129 remote switching equipment's disabled software could still be activated and de-  
130 activated within minutes. (Direct Testimony of Kocher at p. 11 and 12).  
131

132 Q. Is using a remote switch in this manner an efficient use of this equipment?  
133

134 A. Not in my opinion. Although I am not in a position to direct how the various  
135 carriers configure their respective networks, it seems impractical to disable a  
136 functional end office remote switch and use the equipment as access node.  
137 Remote switches are designed to provide customers who are located at distant  
138 locations with a local switch with the intelligence to perform basic call processing  
139 functions. Advanced features and administrative functions are directed by the  
140 host switch which provides direction to the remote via a high speed data  
141 connection. Many local exchange carriers utilize this host/remote configuration  
142 in Illinois and I have inspected numerous such facilities.

143

144 Q. Is it your opinion that a disabled remote is still a telecommunications switching  
145 device?

146

147 A. Yes. Even though the switching functions are inoperable and temporarily  
148 disabled, the devise is still a switch and could, with minimal reconfiguration,  
149 be returned to its intended design and purpose.

150

151 Q. Have you been involved in other cases where the issue of switch collocation has  
152 been questioned?

153

154 A. Yes. I reviewed and/or provided testimony in the form of Verified Statements in  
155 Dockets 96 AB-003/004; 96 AB-005; 96 AB-006 and 96 AB-009. In all of these  
156 cases, my position and the adopted position of the Commission did not allow for  
157 the collocation of switching or remote switching equipment in incumbent carriers  
158 Central Offices.

159

160 Q. What is your recommendation regarding this complaint?

161

162 A. Upon review of the specific language in the interconnection agreement and  
163 realizing that the remote switching equipment is a switch, I contend that  
164 Ameritech's position is justified. The remote switching equipment, regardless of  
165 the fact that the equipment may be disabled from switching functions, is still a

166 switching device that can provide traditional telecommunications services once  
167 the switching functions are restored.

168

169 The plain language in the interconnection agreement states, "[a] Collocating  
170 Party shall not be permitted to collocate switching equipment ...."

171 (Interconnection Agreement at p. 27). The remote switching centers used by  
172 MGC are switching devices, and therefore should not be allowed to collocate in  
173 the Ameritech's central office facilities. Furthermore, the final sentence the  
174 agreement goes on to say that "MGC shall be permitted to locate other  
175 equipment not capable of switching with the prior written approval of Ameritech."

176 The remote switching equipment, however, is capable of providing switching  
177 functions. Therefore, according to its interconnection agreement, Ameritech is  
178 justified in electing not to allow this equipment into its central offices.

179

180 Q. Does this conclude your testimony?

181

182 A. Yes it does.

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

In the matter of the Complaint of MGC  
Communications, Inc.

98-0191

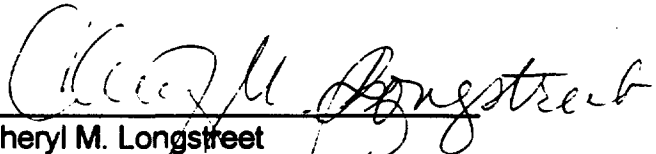
v.

Illinois Bell Telephone  
d/b/a Ameritech Illinois,

Complaint to enforce the interconnection  
agreement between MGC Communications,  
Inc. and Ameritech Illinois.

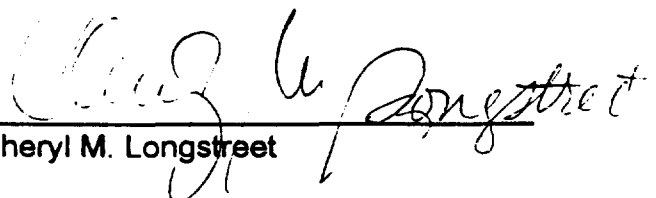
**NOTICE OF FILING**

**YOU ARE HEREBY NOTIFIED** that I have, on this 15th day of December, 1998, filed with the Chief Clerk of the Illinois Commerce Commission, 527 E. Capitol Avenue, Springfield, Illinois, the Direct Testimony of the Staff of the Illinois Commerce Commission, a copy of which is hereby served upon you.

  
Cheryl M. Longstreet  
Illinois Commerce Commission  
Office of General Counsel  
160 North LaSalle Street  
Suite C-800  
Chicago, Illinois 60601  
(312) 793-2877

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that copies of the foregoing Notice, together with the documents referred to therein, were served upon the parties on the attached Service List, by first-class mail, proper postage prepaid, or by facsimile from Chicago, Illinois, on this 15th day of December, 1998.

  
Cheryl M. Longstreet

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